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PTO/SB/64 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: MICHAEL BRAVO-LOUBRIEL

Application No.: 10/737145

Art Unit: 3751

Filed: 12/15/2003

Examiner: WALCZAK, DAVID J.

Title: Toothbrush for prevention treatment of tooth Sensitivity and method therefor

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ \$750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of Replacement Sheet of Drawings (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \$1000.00.

- ☒ has been paid previously on August 28, 2006.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

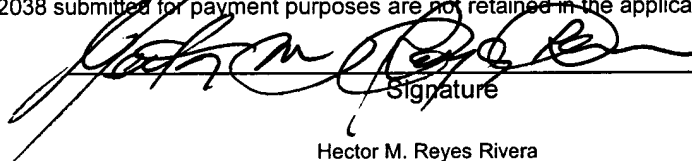
☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


Signature

Hector M. Reyes Rivera

Typed or printed name

Nov. 20th 2006
Date

54846

Registration Number, if applicable

P O Box 190086 Hato Rey Station

Address

(787) 467-5522

Telephone Number

San Juan Puerto Rico 00919

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Cover letter, Notice Allowability, Notice Abandonment, Suppl. Declaration

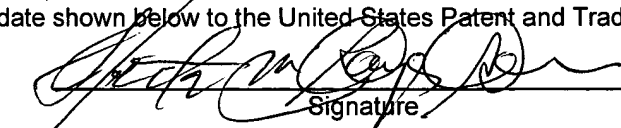
CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Nov 20 2006
Date


Signature
Hector M. Reyes Rivera
Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. 10/737145 Confirmation No. 6322
Applicant: Michael Bravo-Loubriel
Filing Date: 12/15/2003
Examiner: Mr. David Walczak Art Unit: 3751

November 20, 2006

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Petition to Revive the above identified application pursuant to 37 CFR 1.137 (b)

Dear Sir:

This petition is respectfully presented to the Office in response to a Notice of Abandonment mail on November 15, 2006 and received today, November 20, 2006 wherein the above Application was declared abandoned.

The only reason to sustain the abandonment as indicated in marked-up block 3 of the Notice of Abandonment, (PTO-1432) is the failure to timely file corrected drawings as required the Notice of Allowability (PTO-37) dated on July 12, 2006.

The said Notice of Allowability properly requested on block 5 the correction of drawings as Replacement sheets that must be submitted indicating the changes required by the Examiner. The only change to the said drawing required by the Examiner was the elimination of the number 16 in Fig. 2; see Notice of Allowability on page 2 and 4.

Please consider in the evaluation process of the instant petition that the information presented in the Reply (Replacement Drawings) is identical to the information already in the Application, more particularly in page 4 of the Notice of Allowability (marked-up copy prepared by the Examiner), since the Examiner already eliminated the number 16 from Fig. 2, in proper compliance with MPEP 608.02 (w) and MPEP 1301.04

“Where an application is ready for issue except *for a slight defect in the drawing not involving change in structure*, the Examiner will prepare a letter to the Applicant indicating the change to be made and include a marked-up copy of the drawing showing the addition or alteration to be made. The marked up copy of the drawing should be attached to the letter to the Applicant and a *copy placed in the application file*.”

Therefore, by granting this petition no new set of drawings, neither new issues nor new amendments are intended to be entered to the instant application since the correction of a slight defect not affecting the structure of the drawing has been already made by the Examiner and is indeed part of the application. No new matter, neither whole set of drawings nor patentability issues are involve in providing the Office the requested Replacement sheet of the drawings.

The entire delay in filing the required reply form the due date for the reply until the filing of the grantable petition pursuant to 37 CFR 1.137 (b) was unintentional. The drawings were corrected by our graphic designer, on August 17, 2006 and it was believed that the proper reply was send by regular mail on August 18, 2006. Unfortunately, we do not have in our hands the supportive evidence required to support the reply sending to the Office.

Please find enclosed:

- copy of the proper reply as indicated by the Examiner in PTO-37, box 5: *a Replacement sheet of the drawings wherein the number 16 has been eliminated as requested by the Examiner*;
- A small entity petition fee pursuant 37 CFR 1.17 (m) for the amount of \$750.00;
- Petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b), PTO/SB/64 form.
- Self addressed Post Card

We also include herein and for your convenience:

- Copy of the Notice of Abandonment dated November 15, 2006
- Copy of the Notice of Allowability, dated July 12, 2006.

Since the instant Application was filed on 12/15/2003, it is believed that no terminal disclaimer is needed as pursuant 37 CFR 1.137(d).

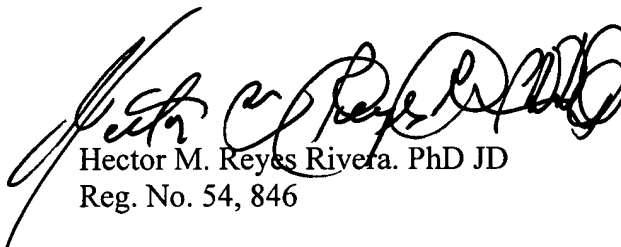
Granting this petition is respectfully requested and is greatly appreciated.

Please also find enclosed a *Supplemental Declaration for Utility pursuant to 37 CFR 1.67*

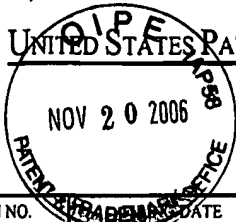
Although the said Supplemental Declaration has not been requested by the Office, it is he voluntarily submitted herein with the only purpose of correcting deficiencies or inaccuracies present in the earlier declaration.

If any additional information is required, please do not hesitate to contact me immediately, I can be reach at 787-467-5522 or 787 754-0855.

Respectfully,



Hector M. Reyes Rivera. PhD JD
Reg. No. 54, 846



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	INVENTOR'S NAME	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,145		Michael Bravo-Loubriel		6322

7590 11/15/2006
Hector M. Reyes-Rivera, PhD JD.
P.O. Box 190086
Hato Rey Station
San Juan, PR 00919

EXAMINER

WALCZAK, DAVID J

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



Notice of Abandonment

Application No.	Applicant(s)	
10/737,145	Michael Bravo-Loubriel	
Examiner	Art Unit	
WALCZAK, DAVID J	3751	

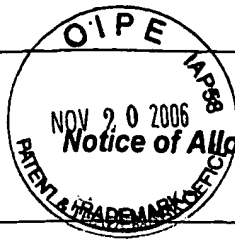
– The MAILING DATE of this communication appears on the cover sheet with the correspondence address–

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☒ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☒ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

AG

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



Application No.

10/737,145

Examiner

David J. Walczak

Applicant(s)

BRAVO-LOUBRIEL, MICHAEL

Art Unit

3751

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address–

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 4/19/06.
2. ☒ The allowed claim(s) is/are 6-12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input checked="" type="checkbox"/> Other <u>Drawing correction</u> . |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the drawings:

Amend the drawings as indicated in red ink on the attached sheet.

In the specification:

On page 17, line 18: after "concentration" insert --and/or fluoride salts--.

In claim 6:

Line 16: delete "main cylinder" and substitute --head--, delete "containing" and substitute --and said main cylinder contains--.


Claims 6-12 are allowed. It is noted that the amendment to the drawing was needed since reference character 16 is not present in the specification. The amendment to the specification was needed to provide a positive antecedent basis for the language in claim 8 (support for this language can be found on page 6, line 2, as originally filed). The amendment to claim 1 was needed to clarify that the outlet 15 is actually positioned in the head (as defined in original claim 1) and the cartridge is found in the main cylinder.

Art Unit: 3751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David J. Walczak
Primary Examiner
Art Unit 3751

DJW
6/30/06

Fig. 1

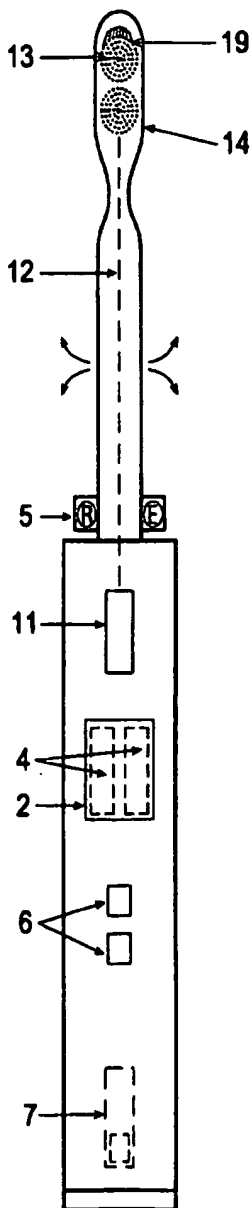


Fig. 2

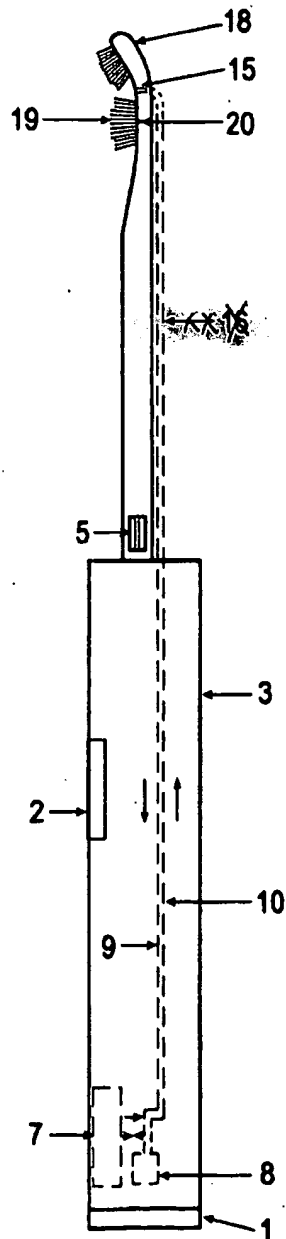


Fig. 3

